

January 11, 2016

**Via Electronic Filing**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation; CG Docket No. 02-278**

Dear Ms. Dortch:

On January 8, 2016, on behalf of the National Rural Electric Cooperative Association (“NRECA”), I spoke with Edward “Smitty” Smith, Legal Advisor to Chairman Wheeler, about the *Petition for Expedited Declaratory Ruling* filed by the Edison Electric Institute and American Gas Association in the above-referenced proceeding (the “EEI Petition”),<sup>1</sup> and comments filed by NRECA in support of the EEI Petition.<sup>2</sup> During the conversation, I referenced the enclosed handout, which I am providing to Mr. Smith with this notice.

The handout describes the types of calls and texts that electric cooperatives place to their member-owners, and summarizes comments NRECA received from some electric cooperatives regarding their communications with their member-owners. As explained in the handout, many electric cooperatives received complaints from their members when they stopped these communications due to the threat of TCPA violations. Cooperative members have complained because they want to continue to receive these types of communications. This highlights the importance of non-telemarketing, service-related calls and texts from energy utilities to their customers, and further supports granting the EEI Petition.

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<sup>1</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Petition for Expedited Declaratory Ruling of the American Gas Association and Edison Electric Institute*, CG Docket No. 02-278 (Feb. 12, 2015).

<sup>2</sup> Comments of the National Rural Electric Cooperative Association, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Petition for Expedited Declaratory Ruling of the American Gas Association and Edison Electric Institute*, CG Docket No. 02-278 (March 26, 2015).

## KELLER AND HECKMAN LLP

Ms. Marlene H. Dortch  
January 11, 2016  
Page 2

This notice is being filed electronically in the above-referenced proceeding, pursuant to Section 1.1206(b)(2) of the Commission's rules. Please contact me with any questions.

Respectfully submitted,

/s/ Tracy P. Marshall

Tracy P. Marshall  
Counsel to NRECA

Enclosure

cc: Edward "Smitty" Smith



# **National Rural Electric Cooperative Association**

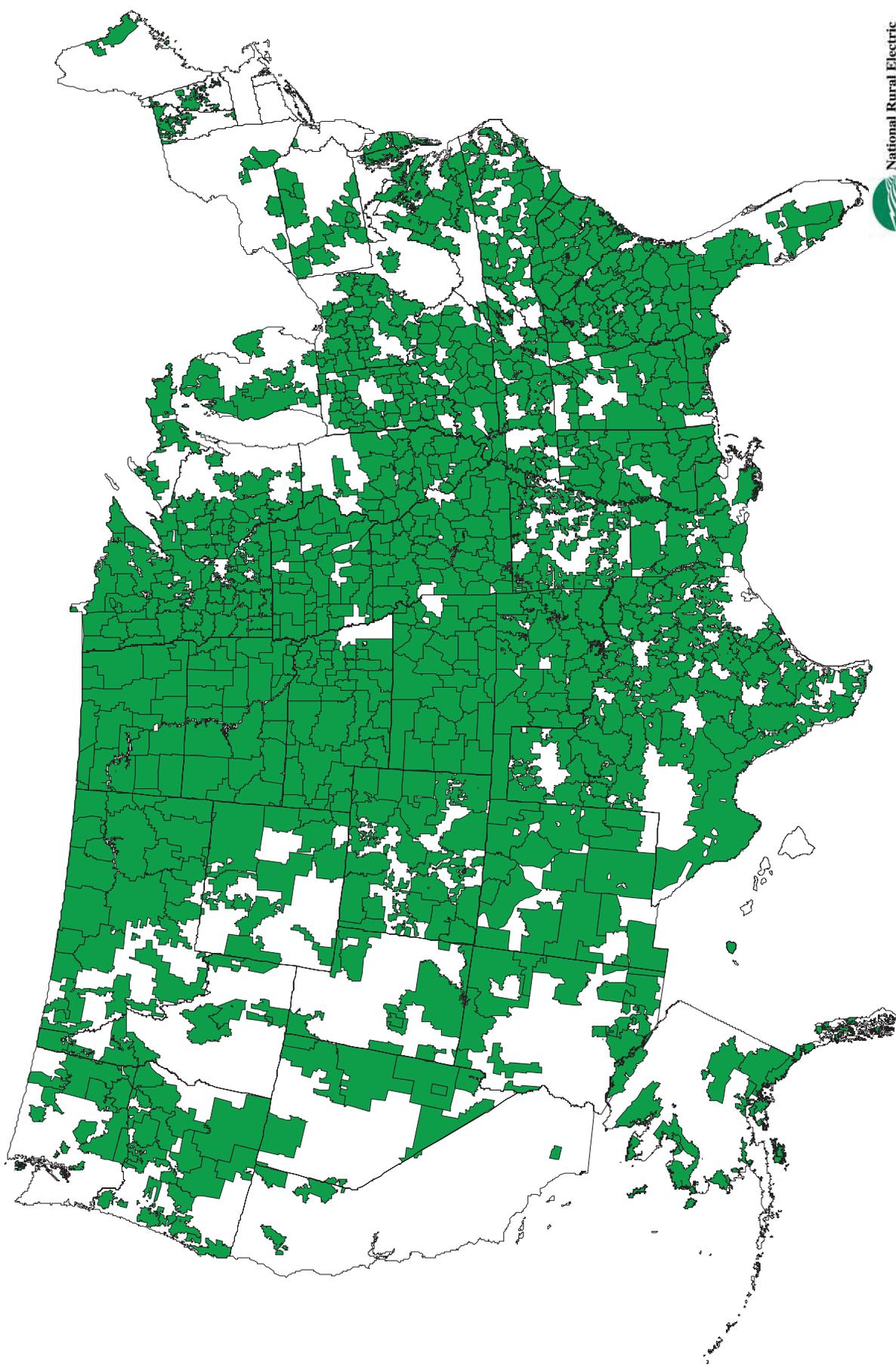
A Touchstone Energy® Cooperative 

## **Electric Cooperative Communications with Our Member-Owners**

*Impacts of the Telephone Consumer Protection Act*

August, 2015

# Counties in Which Electric Distribution Co-ops Serve



# Rural Electric Cooperatives – By the Numbers

- 930 Consumer-Owned and - Governed Utilities:
  - 42 million consumer owners
  - 47 States
  - 12% of the Population
  - 2.3 Million Miles of Line (42% of Nation's Total Distribution Plant)
  - Built, Own & Operate 54,000 MW of generation
  - Service Area Covers 75% of Nation's Land Mass
  - Employ 70,000 people in the U.S.
  - Pay \$1.4 billion in state and local taxes annually
- 
- Median Per Capita Income of Co-op Consumers = 21% Below the National Average (or \$21,435)
  - Serve the vast majority of the nation's persistent poverty counties (327 out of 353, or 90%).
  - These counties have deeply entrenched poverty with rates consistently 20% or above for the last three decades

# Types of Automated/Robo Calls and Texts Member Co-ops Make

- Outages
- Restoration
- Tree Trimming
- Prepayment balances
- Disconnection for non-pay



# What NRECA Is Doing to Address the TCPA

- Webinar presented on November 1, 2013.
- Information sent out to Legal and Financial communities advising caution.
- Recommendations to update membership application to include express consent.
- Recommendations to reach out to customers to request express consent.
- Featured panels at NRECA's 2015 Legal Seminars
  - Held in 2 locations (San Antonio TX and Asheville NC)
  - Approximately 300 lawyers (in house and outside counsel to electric cooperatives) attended.
- Articles published in NRECA's Legal Review
  - Readership of approximately 1,000

## Poll of NRECA Member CEOs (Aug. 2015)

- Three questions:
  - Have you stopped autodialing, robocalling or texting your member owners?
  - If yes, have member owners expressed concern/complained about it?
  - If yes, how many complaints have you received?
- 132 responses as of 8/24/2015
  - Of the 101 co-ops that make or have made autodialed, robocalls, or text messages 31 have stopped.

# NRECA Member Response

## ***Complaints from member-owners when calls and/or texts were STOPPED:***

- “I would estimate for the first few months we received 15 or so calls per week. We are a 18,000 meter system.”
- “I would estimate . . . approximately 50 complaints each month and I feel that the complaints will continue.”
- “We had an immediate response when service was disconnected for nonpayment and members did not receive the call. An estimate of the number of comments/complaints since July 31 is 100.”
- “We have received over 1000 calls asking that the service be reinstated.”
- “Approximately 150 complaints per month.”
- “we have had complaints from our members who said they wish they would have known about the outage. I’d say 15% of the members who were impacted will complain.”
- “Probably 50 complaints total.”
- “When we suspended these calls we received several complaints from our members . . . We had over seventy people call and complain that we no longer were concerned about their accounts and they felt we were getting just like the big companies.”
- “Yes our members have complained that they liked the meeting reminders, payment and account information calls and other informational calls. At almost every member committee meeting, member Zone meetings, and the like, we hear comments or are asked questions as to why those calls are not being made.”
- “[about] 125 in the couple of months following the practice being discontinued.”

# NRECA Member Response

## ***Comments from co-ops that have not stopped autodialed calls, robocalls or text messages:***

- “The only complaints we have received are when people say they don’t receive our phone calls... Both for disconnect for non-pay or outages. We constantly receive thankful comments from members whenever we remind them about needed payments or provide outage information.”
- “We also make courtesy call-outs each week to members coming up on the next nonpay disconnect list. Unfortunately, many members really depend on those ‘last minute’ reminders instead of reading the cut-off dates on their bills.”
- “...if we have technical issues with the IVR that prevent a dial out, members get very upset that they were not called prior to a disconnect. We disconnect an average of 150 members per day.”
- “...last week we unexpectedly lost one of our outgoing dialing circuits. As a result, many of our outbound automated calls went undelivered. That said, we had quite a few members call us stating they were disappointed that we were unable to deliver the low balance and pending disconnect messages they have come to appreciate.”
- “We have found that our members LOVE these notifications and get upset when they do not get them. We cancelled our delinquent reminders during an ice storm a few years back and got *numerous* (emphasis in original) complaints that these did not go out.”

# Questions or Comments?

**Martha Duggan – Sr. Principal, Regulatory Affairs**

**National Rural Electric Cooperative Association**

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